

**Privacy Policy**  
**Lawrence Berkeley National Laboratory**  
**Health Services Group**  
**Berkeley, CA**

**Purpose:**

This privacy policy is adopted to ensure that Lawrence Berkeley National Laboratory's (LBNL) Health Services staff protects patient privacy in the practice of occupational health. LBNL Health Services staff considers it their duty to prevent the unlawful disclosure of protected health information (PHI) and to educate patients and/or their personal representatives (when authorized) about their privacy rights under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable laws.

**Effective Date:** April 14, 2003

**Privacy Official:**

Peter Lichty, MD is the privacy official. Duties of the privacy officer include:

- Ensure that the Privacy Policy is in compliance with federal and state confidentiality laws
- Ensure that the Privacy Policy is kept current
- Train employees about the Privacy Policy
- Designate who will maintain the Non-routine PHI Disclosure Logs
- Together with the practice manager, maintain the Workforce Access to PHI list
- Assist patients who wish to file a formal complaint if they believe their privacy rights have been violated
- Sanction employees who violate the Privacy Policy

Any questions about Health Services' Privacy Policy should be addressed to Peter Lichty, MD, Privacy Official.

**Staff Training and Awareness:**

All members of the workforce will be trained on the policies and procedures governing PHI and how LBNL Health Services will comply with the HIPAA Privacy Act. Staff participation in the training will be documented. New members of the staff will be trained as part of their orientation to Health Services within 60 days from the date of hire. Any policy changes will be communicated to all Health Services staff.

**It is Health Services' policy to review with patients the Consent to Medical History, Tests or Procedures form prior to any evaluation as part of the PHI process. After a thorough review of all listed components, tests and procedures, the employee accepts or declines each individually by initialing the consent form.**

**Workforce Access:**

Based upon the individual staff member's duties and job descriptions, the practice manager and privacy officer will determine access levels for PHI. The privacy official and practice manager will maintain a Workforce Access to PHI list.

**Sanctions For Unintentional Violations of the Privacy Policy:**

If the privacy officer determines that an employee unintentionally released PHI, the privacy officer and employee will review the Policy and discuss the violation. The violation will be recorded in the individual's personnel file. After three such violations the process of progressive discipline will begin.

**Sanctions For Intentional Violations of the Privacy Policy:**

The Health Services Medical Director will determine the subsequent consequences, which could be an oral or written reprimand for a first offense up to and including dismissal for any subsequent offenses.

**Protected Health Information Use and Disclosure Requirements:**

HIPAA and state confidentiality laws permit disclosure of protected health information (PHI) for purposes of treatment, payment and health care operations (TPO). PHI is the information gathered and created by the LBNL Health Services staff to provide medical care and treatment to patients; this information includes documentation of symptoms, examinations, test results, diagnosis, treatment and recommended future care and treatment. PHI must be stored, retrieved and destroyed in a confidential manner.

**LBNL Health Services policy requires that the identity of anyone who requests access to PHI will be verified before any disclosure of PHI is made.**

**Release of PHI When Authorization is Not Required:**

A signed authorization form is *not* required for the use and disclosure of PHI when requested for treatment, payment and operations. Currently only "treatment" and "operations" functions apply to LBNL Health Services.

"Treatment" refers to communications related to the provision, coordination and management of health care and related services. At LBNL Health Services this includes, but is not limited to, consultation between providers and referral to other providers.

"Operations" include business activities essential to the ongoing management of an occupational health practice, such as (but not limited to):

- Quality improvement
- Performance evaluations
- Training
- Licensing
- Credentialing
- Medical review
- Auditing by appropriate entities

**LBNL Health Services will make reasonable efforts to use or disclose only the "*minimum amount of confidential information necessary*" in all circumstances.**

Exceptions to the minimum necessary rule are:

- PHI requested for treatment purposes
- PHI provided to the patient or authorized by the patient, and/or
- PHI requested as required by law for HIPAA compliance

**Release of PHI When a Patient Authorization *IS* Required:**

Health Services' policy requires a signed written authorization for release of all PHI. **(Attachment B)** A copy of the signed form will be put in the patient's chart and the patient will be provided with a copy of same.

**Records of Deceased Patients:**

Privacy protections extend to medical information of deceased patients except as required by law. When records of deceased patients are requested, the requestor will be referred to the Laboratory's General Counsel.

**Records of Minors:**

Staff should direct any questions about the release of an emancipated minor's records to the privacy officer.

**Patients Right to Revoke Authorization of Release of Records:**

Patients have the right to revoke authorizations for release of records. The revocation should be in writing via a letter to the Health Services office. The revocation will not affect any actions already taken by Health Services based on the original authorization.

**Exceptions to Disclosure For Third Party Administrator and The Need For Authorization:**

- State reporting requirements, such as the duty to warn individuals of imminent danger from a patient, child or elder abuse, domestic violence, etc.
- State requirements for the release of information related to Worker's Compensation claims
- Public Health activities
- Health oversight activities
- Judicial and administrative proceedings
- Criminal investigation by law enforcement officials
- Decedent information needed by coroners and medical
- Necessity to disclose to avert serious health or safety threat; and
- Specialized governmental functions

**Physical Safeguards of PHI:**

It is the Policy of Health Services that physical safeguards will be in place to reasonably ensure that PHI will not intentionally or unintentionally be disclosed in violation of the Privacy Act. The safeguards include physical and administrative protection of the premises and PHI. This protection will also be extended to oral communication of PHI.

Examples of how Health Services will ensure protection for PHI are:

- Medical records will be stored in a non-patient access area (Building 26, room 143) in a dedicated locked electronic file cabinet (Lektriever). The door to this cabinet will be locked at night and the key will be secured in a place known to a limited number of staff.
- The doors to the office will be locked at the close of business. Employees working after hours will ensure that any and all doors are locked before leaving;
- Access to building 26 is controlled by ProxCard. (See LBNL Site Security and Access Policy and Procedures);
- Keys to the internal doors of Building 26, top floor will be given to Health Services staff only. Staff leaving employment will be required to return building keys. Card access will be revoked on the last day of employment.
- Avoid leaving charts where PHI can easily be read by unauthorized personnel;
- Individual computer passwords and screen savers will protect access to PHI when staff are away from their desks or work areas;
- Staff will not remove PHI from the premises.

**Retention of Records:**

Medical records of inactive employees will be sent to LBNL Archives and Records Office for storage in accordance with all federal and Department of Energy rules and regulations.

**Notice of Privacy Practices:**

The Notice of Privacy Practices (the Notice) will be posted at the front desk and will be available at the reception area. Patients will receive a copy of the Notice at their first visit subsequent to April 14, 2003. The receptionist will ask each patient to sign and date the Acknowledgment of Receipt of Notice form. The form will be filed in the patient's chart and the front of the chart will be stamped with the "**HIPAA NOTICE ACKNOWLEDGMENT SIGNED**" stamp.

Should the patient refuse or be unable to sign the Acknowledgment, a Health Services staff member will complete the Documentation of Good Faith Efforts by LBNL Health Services to Provide HIPAA Notice on the reverse side of the form and follow the steps as above.